

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO**

IN RE: **JOAN MALDONADO ORTA**

SSN xxx-xx-4252

HECTOR L SANCHEZ COLON

SSN xxx-xx-1374

Debtor(s)

CASE NO: **14-07820-ESL****Chapter 13**

**TRUSTEE'S OBJECTION TO PROPOSED POST CONFIRMATION PLAN MODIFICATION UNDER
SECTION 1329**

*ATTORNEY FEES AS PER R 2016(b) STATEMENT:

Attorney of Record: **ADELA L TORRUELLA***Total Agreed: **\$3,000.00** Paid Pre-Petition: **\$190.00** Outstanding (Through the Plan): **\$0.00**

*TRUSTEE'S POSITION RE CONFIRMATION UNDER U.S.C. §1329

Debtor's/s' Commitment Period: ☐ Under Median Income 36 months ☒ Above Median Income 60 months §1325(b)(1)(B)
Projected Disposable Income: **\$0.00****Liquidation Value:\$774.00 Estimated Priority Debt: \$2,000.00****If the estate were liquidated under Chapter 7, nonpriority unsecured claims would be paid approximately \$0.00**With respect to the Proposed "PCM": Dated **8/31/18 (Dkt 79)** **Plan Base: \$56,405.00****The Trustee:** ☐ **DOES NOT OBJECT** ☒ **OBJECTS** Plan Confirmation Gen. Uns. Approx. Dist.:4.49%**The Trustee objects to confirmation for the following reasons:****[1325(a)(1)] Failure to comply with her/his/their duties.[11 U.S.C.704(a)(4) and 1302(b)(1)]****- Debtor has failed to submit post-petition tax returns for evaluation.****Debtor has failed to submit evidence of having filed joint Debtor's tax return 2016.****[1325(a)(8)] DSO Payment Default – Debtor(s) is in default with post-petition DSO payments.****Debtor must submit evidence of being current with post-petition DSO payments up until the approval of the proposed plan.****[1325(b)(1)(B)] Projected Disposable Income – Debtor(s) fails to apply projected disposable income, to be received during applicable commitment period, to make payments to unsecured creditors under the plan. [1322(a)(1)]****- Fails to provide to devote future income tax refunds to fund the plan.****As per evidence submitted Debtor receives a total amount of 3,855.00 of tax refunds (2014 r. \$1,485.00 both, 2015 r. \$1,239.00 both and 2016 r. \$1,131.00). Debtors' tax refunds are generally considered projected disposable income that should fund the plan. See In re Michaud, 399 B.R. 365, 372-73.****We object to the language of section 8.2 it is a fact that Chapter 13 debtors' tax refunds are considered projected disposable income that should fund the plan. See In re Matos, 478 B.R. 506, 513 (B.A.P. 1st Cir. 2012) [All tax refunds received by a chapter 13 debtor after the bankruptcy filing are also property**

Debtors have duty to disclose if they were entitled to receive refunds, a language in the plan stating Trustee did not require the tax refunds, does not exempt Debtors to comply with § 1306(a),

NOTICE

14 day notice: Within fourteen (14) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

CERTIFICATE OF SERVICE: The Chapter 13 Trustee herewith certifies that a copy of this motion has been served via first class mail on the same date it is filed to: the DEBTOR(S), and to her/his/their attorney through CM-ECF notification system.

/s/ Jose R. Carrion, Esq.
CHAPTER 13 TRUSTEE
PO Box 9023884, San Juan PR 00902-3884
Tel. (787)977-3535 Fax (787)977-3550

Date: September 05, 2018

/s/ Juliel Perez, Esq.